IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.335 OF 2007

Abhijeet Infrastructure Limited
& Another .. Petitioner

Vs.

Maharashtra State Electricity
Distribution Company Limited .. Respondents

Mr.A.Y.Bookwala a/w Mr.Deven Chauhan and Mr.Nikhil Mehta i/b M/s.KMC Legal Venture for the petitioner

Mr.G.R.Joshi a/w Mr.Kiran Gandhi i/b M/s.Little and Co. for the respondents

CORAM : J.N.PATEL &
S.C.DHARMADHIKARI, JJ.

DATED : 14TH FEBRUARY, 2007

P.C.:

1. Mentioned. Not on board.

2. Heard the learned counsel for the parties. We propose to dispose of the petition at the stage of admission itself.

3. The learned counsel for the respondents submits that as this court proposes to dispose of the petition at the stage of admission itself, no affidavit in reply is required, as he is placing

documents on record particularly the decision of the competent authority that all the bids which are not received within the stipulated time should not be opened and that is the reason why the petitioners' bid was not taken into consideration. The said decision of the competent authority is taken on record and marked 'X' for identification.

4. In addition to this, it is submitted that the other bidders also strongly objected to considering bids of the petitioners as it was submitted beyond time i.e. late by 15 / 45 minutes.

5. We are informed that there is one more bidder whose bid was submitted late alongwith the petitioners i.e. Gondvana Engg. Pvt.Ltd. who has not approached before this court.

6. The respondents invited bids in the form of request for clarification notification i.e. an invitation for supply of power on long-term basis (Case-I of CBG). In the said bid process, it was specifically mentioned that there was a specific

time table of important events i.e. the date of events which is reproduced as under:

"**DATE**	**EVENT**
To	Commencement of Sale of RFQ documents (24th Nov.,2006)
To + 15 days	Last date of Sale of RFQ documents (8th Dec.,2006)
To 60 days	Submission of Response of RFQ (22nd Jan.,2007)

If any of the dates mentioned above is declared a public holiday, the deadline will be the next working day. The RFQ documents are not transferable."

7. Though there was no specific time mentioned in the request for qualification notification in Clause 2.6 which relates to due dates, in 2.6.1 of the document of request for qualification, it is specifically mentioned that the bidders should submit the response so as to reach the following address by 12.30 hrs. on _____ (the date is kept blank) i.e. in terms of the request for qualification notification which specifies submission of response of RFO by 22.01.07.

8. It is not disputed before us that the respondents on their own extended the last date of submission of response of RFQ documents to 5.2.07.

It is the contention of the learned counsel for the petitioners that on 5.2.07, the petitioners tendered their submission of response of RFQ documents on 5.2.07 but at 12.45 hours whereas it is the case of the respondents that it was at 13.15 hours.

9. It is the contention of the petitioners that the delay is not material for consideration of the response submitted by the petitioners as it does not in any way prejudice the other participants as well as affect any of the substantial terms and conditions of the tender documents and, therefore, this should have been condoned by the respondents. The respondents having failed to condone the same and, therefore, they have approached this court.

10. Another contention is that when the respondents on their own extended the last date of submission of responses of RFQ documents to 5.2.07, no specific time was notified and therefore, if any submission of responses of RFQ documents was within the office working hours then there was no reason

why the respondents should not have accepted their submission of responses of RFQ documents.

11. The learned counsel for the respondents submits that it is an accepted position that the last date was extended to 5.2.07 but the request for qualification specifically specified the time as 12.30 hours and therefore, it was not necessary while extending the last date of submission of responses to mention time and that it was well within the knowledge of all concerned.

12. In our considered opinion, the delay of 15 or 45 minutes as rightly submitted by the learned counsel for the petitioners, does not in any way prejudice the other bidders or is in substantial breach of the requirements of the request for submission of RFQ documents. We therefore, direct the respondents to consider all submissions of RFQ documents received on 5.2.07 including that of Gondvana Engg. P.Ltd. Petition stands disposed of accordingly with no order as to costs.

13. Respondents to act on an authenticated copy

of this order.

(SHRI J.N. PATEL, J)

(SHRI S.C.DHARMADHIKARI, J)